

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 1-23 and 27 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(b), claims 24-26, directed to the process of making or using the allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104. Claims 24-26, directed to the invention(s) of a process of using require all the limitations of an allowable product claim.

Because a claimed invention previously withdrawn from consideration under 37 CFR 1.142 has been rejoined, **the restriction requirement between groups I and II as set forth in the Office action mailed on 7/16/2009 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

### *Drawings*

2. The drawings were received on 3/1/2010. These drawings are acceptable.

## EXAMINER'S AMENDMENT

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3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Steve Murray on 3/25/2010.

The application has been amended as follows:

IN THE CLAIMS:

In claim 24, line 7 after the phrase "the limbs of the device", delete --of claim 2--

Replace claim 27 with the following:

A method for separating a target substance from a mixture of substances present in liquid form by using the device of claim 1, the method comprising the following steps:

- a) adding to the mixture magnetic or magnetizeable particles having specific binding properties in relation to the target substance;
- b) placing a pre-determined volume of the mixture in the air gap between the two poles of the limbs of the device and immersing the at least one magnetizeable bar of the device into the mixture, and the magnetic field being initially deactivated by moving the at least one permanent magnet;

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c) activating the magnetic field by moving the at least one permanent magnet, the change of position causing the magnetic field to be activated and the bar to be magnetized and the particles to accumulate at and substantially adhere to a lower end of the bar;

d) immersing the bar, together with the particles adhering thereto, into a predetermined volume of a liquid that causes elution of the target substance from the particles; and

e) lifting the bar from the elution liquid.

4. The following is an examiner's statement of reasons for allowance:

5. The prior art of record fails to disclose, teach, or fairly suggest A device for separating magnetic or magnetizeable particles from a liquid by using a magnetic field, the device comprising: two limbs made of a soft-magnetic material, each limb forming a magnetic pole; an air gap between the two poles of the limbs, the air gap being suitable for receiving at least one container; a head piece arranged in a fixed or detachable manner on one of the two poles and at least one magnetizable bar disposed vertically in a fixed or movable manner on the head piece; at least one permanent magnet movably arranged on at least one point of the device for producing a magnetic field between the two poles, wherein the magnetic field is activated or deactivated by moving the magnet; and a material arranged at least partially surrounding a region of the device where the at least one movable magnet is located to screen the magnetic field.

Specifically, the prior art of record fails to teach or fairly suggest the combination of the head piece element with a magnetizeable bar along with a material arranged to screen the magnetic field in combination with the limbs, air gap, and permanent magnet being movably arranged for switching a magnetic field.

***Conclusion***

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID C. MELLON whose telephone number is (571)270-7074. The examiner can normally be reached on Monday through Thursday 9:00am-5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vickie Kim can be reached on (571) 272-0579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Tony G Soohoo/  
Primary Examiner, Art Unit 1797

/D. C. M./  
Examiner, Art Unit 1797